



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** River Products, Inc.

**File:** B-234312

**Date:** February 10, 1989

---

### DIGEST

A contracting officer is not required to delay a contract award until a protester's appeal to the Small Business Administration (SBA) from an SBA size determination has been decided.

---

### DECISION

River Products, Inc., protests the award of a contract to Folk Construction Company, Inc., under invitation for bids No. DACW01-89-B-0002, a small business set-aside issued by the Army Corps of Engineers for hydraulic dredging.

The protest is dismissed.

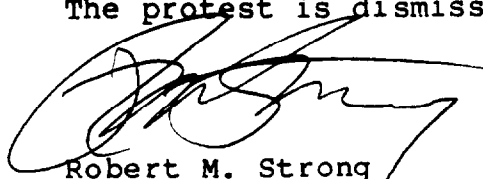
River contends that it was improper for the Army to make an award to Folk while River's appeal of a decision by the Small Business Administration (SBA) regional office that Folk was a small business for this solicitation is still pending before the SBA's Office of Hearings and Appeals.

Under the Federal Acquisition Regulation (FAR) 48 C.F.R. § 19.302(h)(1) (FAC 84-12), when a size status protest is filed, a contracting officer may not make an award until the SBA Regional Administrator has issued a determination or until 10 working days after SBA's receipt of the protest, whichever occurs first. There is no requirement, however, that a contracting officer withhold a contract award until the SBA renders a decision on an appeal from an SBA regional office size determination FAR § 19.302(i); DJW Services, B-225587.2, Sept. 29, 1987, 87-2 CPD ¶ 312. Moreover, an

044632/137959

SBA ruling on the appeal does not affect the award of a contract if it is received by the contracting officer after award. FAR § 19.302(i).

The protest is dismissed.

A handwritten signature in black ink, appearing to read 'R. Strong', is written over the printed name.

Robert M. Strong  
Associate General Counsel